IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1374 OF 2006

Subhash Jethu Patil & Ors. ...Applicants

V/s

The State of Maharashtra ...Respondent.

Mr. A.P. Mundergi with Mr. Amol Patankar for the applicants.

Mr. Y.S.Shinde, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 27th April, 2006

P.C.

1. Heard the learned Counsel for the applicants and the learned APP for the State.

2. The applicants were arrested in connection with C.R. No.73 of 2005 registered with Rasayni Police Station, District Raigad for the offence punishable under sections 364A, 384, 386 read with section 34 of the Indian Penal Code.

3. It is alleged by the prosecution that the complainant was working with Reliance Industries. The applicants initially demanded Rs 15 lakhs from him and from time to time, they used to make this demand. It is alleged that while the complainant had gone to a

hotel to drink a cup of tea, he was picked away by the applicants who were travelling in one car and the other accused were travelling in another car. It is alleged that the complainant, when he saw the Police Station, raised a hue and cry and the police, thereafter, followed the two vehicles and they were in a position to apprehend the applicants who were kidnapping the complainant. The other vehicle could not be stopped and those persons escaped the net of the police.

4. The learned Counsel appearing on behalf of the applicants submitted that though there was some evidence in respect of the offence punishable under sections 384 and 386 of the Indian Penal Code, there was no material with the police in respect of the offence punishable under section 364A of the Indian Penal Code. He submitted that the complainant has not stated in his complaint that he had contacted Shri Bhatt who was his boss, whereas the Investigating Officer has stated in his statement that he received a call from Shri Bhatt who informed him that the applicants were trying to kidnap Juned and, at the same time, when they came out of the Police Station, they heard shouts of the complainant. It is submitted that there is, therefore, some inconsistency in the

statement of the complainant and the statement of the Investigating Officer. The learned Counsel submitted that the applicant No.1 Subhash Jethu Patil was, at one time, an employee of the Reliance Company and was also a member of the Labour Union. It is submitted that, therefore, the applicants are being falsely implicated in this case. The learned Counsel, therefore, submitted that the offence under section 364A was not made out and, at the highest, it could be said that there was an attempt to kidnap the complainant and therefore offence under section 511 of the Indian Penal Code was made out which was not punishable with imprisonment for life.

5. The learned APP appearing on behalf of the State on the other hand submitted that from the statement of the complainant it was clear that on two earlier occasions the complainant was accosted and, thereafter, he was picked away by these applicants. He submitted that, therefore, the intention of the applicants was very clear and they had succeeded in kidnapping the complainant and it was only because of the timely intervention by the police, the complainant could be saved from the clutches of the applicants.

6. The submissions of the learned APP appearing on

behalf of the State will have to be accepted. In my view, there is sufficient material on record to indicate commission of the said offence by the present applicants. Kidnapping for ransom is a very serious offence which is punishable with imprisonment for life. The inconsistency in the statement of the complainant and the Investigating Officer cannot be considered on merits at this stage. Therefore, in my view, this is not a fit case for grant of bail, particularly because the leader of the applicants viz. the applicant No.1 is also involved in similar offence and the said case is pending. Therefore, if the applicants are released, they are likely to threaten the witnesses. The application is rejected.

7. Application is accordingly disposed of.

V.M. KANADE, J.